

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

**SHANE ENSLIN, ON BEHALF OF )  
HIMSELF AND ALL OTHERS SIMILARLY )  
SITUATED, )**

**Plaintiff, )**

**v. )**

**THE COCA-COLA COMPANY; COCA- )  
COLA REFRESHMENTS USA, INC.; )  
KEYSTONE COCA-COLA AND )  
BOTTLING AND DISTRIBUTION )  
CORPORATION; KEYSTONE COCA- )  
COLA BOTTLING COMPANY, INC.; )  
KEYSTONE COCA-COLA BOTTLING )  
CORPORATION; THOMAS WILLIAM )  
ROGERS, III. )**

**Defendants. )**

**Case No.: 14-CV-06476**

**THE COCA-COLA DEFENDANTS’ MOTION TO DISMISS FOR  
LACK OF SUBJECT MATTER JURISDICTION OR FOR SUMMARY JUDGMENT**

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 56, Defendants The Coca-Cola Company, Coca-Cola Refreshments USA, Inc., Keystone Coca-Cola and Bottling and Distribution Corporation, Keystone Coca-Cola Bottling Company, Inc., and Keystone Coca-Cola Bottling Corporation (collectively, the “Coca-Cola Defendants”), hereby move to dismiss for lack of subject matter jurisdiction or for summary judgment on Plaintiff Shane Enslin’s (“Plaintiff”) remaining claims, as (i) Plaintiff lacks Article III standing to assert the claims alleged and (ii) the undisputed material facts demonstrate that the Coca-Cola Defendants are entitled to judgment as a matter of law. The further grounds for this Motion are set forth in the Coca-Cola Defendants’ accompanying Statement of Undisputed Material Facts, Memorandum of

Law, and supporting declarations and exhibits thereto, which are incorporated herein by reference in their entirety.

Respectfully, the Coca-Cola Defendants submit that the Rule 12(b)(1) portion of this Motion raises a threshold issue regarding Plaintiff's underlying standing to sue and, by extension, this Court's basis for subject matter jurisdiction. This Motion should therefore be adjudicated by the Court in advance of other pending matters before the Court, as further explained in the accompanying Memorandum of Law.

Respectfully submitted,

By: s/ Mark Melodia

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Dated: December 21, 2016